

REMARKS

Claims 1–21 are pending in the application, with claims 1, 12, 19 and 20 being independent.

Claims 1–20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fischer, U.S. Publication No. 2003/0214930 A1 (hereinafter “Fischer”) in view of Le US 6680955 B1 (hereinafter Li), further in view of Dapper, U.S. Publication No. 2002/015950 A1 (hereinafter “Dapper”).

Claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fischer in view of Le and Dapper, further in view of Zehavi (U.S. Patent No. 5,757,767, hereinafter Zehavi).

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Entry of this Amendment is proper under 37 CFR 1.116 since the amendment: (a) places the application in condition for allowance for the reasons discussed herein; (b) does not raise any new issue requiring further search and/or consideration since the amendments amplify issues previously discussed throughout prosecution; (c) satisfies a requirement of form asserted in the previous Office Action; (d) does not present any additional claims without canceling a corresponding number of finally rejected claims; or (e) places the application in better form for appeal, should an appeal be necessary. The amendment is necessary and was not earlier presented because it is made in response to arguments raised in the final rejection. Entry of the amendment is thus respectfully requested.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or simply is clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in

the most minimal way, i.e., simply to avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

Interview Summary

Applicants' representatives wish to thank the Examiner for the courtesies extended during the interview and for facilitating same.

Applicants' representatives initiated the interview to discuss the rejection and in particular the rejection of claim 1. Specifically, interpretation of the claims was also discussed. Possible amendments were discussed including clarifying the claimed language: "applying at least one pre-selected orthogonal function."

Rejection Under 35 U.S.C. §103

Claims 1-20

Claims 1-20 are rejected under 35 U.S.C. §103(a) as being unpatentable over Fischer in view of Le, further in view of Dapper. The rejection is traversed.

The Office Action fails to establish a *prima facie* case of obviousness, because the suggested combination of the references does not teach all of the elements of each of the independent claims. According to MPEP §2143, to establish a *prima facie* case of

obviousness under §103, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

As discussed in the interview, the claims are amended to better clarify the claimed features. Specifically, claim 1 is amended to recite in part:

at a switching device, receiving packets to be transmitted by the switching device toward destination communications devices;

time aligning the data packets in each of the groups using timing information associated with respective group data packets;

applying at least one pre-selected orthogonal function to the packets in each group, thereby orthogonally combining the sorted and time aligned data packets within each of the groups associated with a common communications device; and

transmitting, toward respective destination communications devices and under respective headers, the orthogonally combined packets associated with each of said groups.

Fisher alone or combined with Le and Drapper does not seem to disclose the above features.

Fisher describes receiving a packet, constructing an aggregated fragment acknowledgement frame (AFAF), and sending it back. Accordingly, even assuming that AFAF provides for determining a device for which the packet is intended, no pre-determined time period is used. Rather, AFAFs are sent back almost immediately.

Le is directed toward a timer based header compression/decompression technique and timer and reference based technique. A source generates a header field, such as an RTP time stamp. A packet including the header field is sent to a compressor which calculates a compressed header field based on the header of the packet from the source and a jitter quantity.

Drapper discloses method of computer data transmission over a telecommunications network having a head end connected to a plurality of service units. The method includes receiving a request for transmitting computer data over the network from a service unit, retrieving provisioning information for the service unit, and selectively assigning one or more data channels based on the provisioning information to

transmit the computer data over the network to provide a data path with substantially constant data transfer bandwidth between a head end and the service unit.

However, the combination of Fischer, Le and Dapper does not seem to teach or suggest at least:

“transmitting, toward respective destination communications devices and under respective headers, the orthogonally combined packets associated with each of said groups”

as recited in amended claim 1.

Therefore, the combination of Fischer, Le and Dapper does not teach or suggest all of the elements of Applicants' claim 1, and thus, a *prima facie* case of obviousness with respect to claim 1 has not been established.

Independent claims 12, 19, and 20 recite at least elements similar to the elements discussed above. Accordingly, similar to claim 1 and for at least the reasons discussed above, a *prima facie* case of obviousness with respect to claims 12, 19, and 20 has not been established.

Accordingly, the combination of Fischer, Le and Dapper does not teach or suggest all of the elements of Applicants' claims 12, 19, and 20, and thus, a *prima facie* case of obviousness with respect to claims 12, 19, and 20 has not been established. Because all of the dependent claims depending from the independent claims include all of the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also allowable under 35 U.S.C. §103(a) over Fischer in view of Dapper. Therefore, claims 2 – 11 and 13 – 18 are allowable under 35 U.S.C. §103(a) over Fischer in view of Dapper. The Examiner is respectfully requested to withdraw the rejection.

Claim 21

Claim 21 is rejected under 35 U.S.C. §103(a) as being unpatentable over Fischer in view of Dapper, further in view of Zehavi. The rejection is traversed.

This ground of rejection applies only to a dependent claim and is predicated on the validity of the rejection under 35 U.S.C. §103 given Fischer in view of Dapper. Because the rejection under 35 U.S.C. §103 given Fischer in view of Dapper has been

overcome, as described hereinabove, and there is no argument put forth by the Office Action that Zehavi supplies that which is missing from Fischer and Dapper to render the independent claims unpatentable, this ground of rejection cannot be maintained.

Still further, the Examiner also failed to provide some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness. In a manner similar to the rejection of claim 1, the Examiner articulates the result of modifying the reference, to wit, to use a global timing schedule for the communications network to ensure the synchronization of all the devices in the network. The Examiner's conclusory statement is unaccompanied by evidence or reasoning and is entirely inadequate to support the rejection. *In re Sichert*, 566 F.2d 1154, 1164, 196 USPQ 209, 217 (CCPA 1977). Accordingly, the Examiner fails to meet the requirements set forth in MPEP §706.02(j). The Examiner is respectfully requested to withdraw the rejection.

Conclusion

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 542-2110 x 120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 11/3/10



Eamon J. Wall
Registration No. 39,414
Attorney for Applicant(s)

Wall & Tong, LLP
Attorneys at Law
25 James Way
Eatontown, New Jersey 07724
Telephone: 732-542-2280
Facsimile: 732-542-2283